

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

JUN 24 2004

CAUSE NO. 41268-INJ123

INDIANA UTILITY
REGULATORY COMMISSION

SUBMISSION OF INDIANA BELL)
TELEPHONE COMPANY, INCORPORATED)
D/B/A SBC INDIANA FOR COMMISSION)
RECOGNITION OF AN AMENDMENT TO AN)
INTERCONNECTION AGREEMENT ARRIVED)
THROUGH VOLUNTARY NEGOTIATIONS)
WITH SAGE TELECOM, INC.)

You are hereby notified that on this date the Presiding Officers in this Cause make the following Entry:

On June 9, 2004, we issued an Entry in this Cause directing Indiana Bell Telephone Company, Incorporated d/b/a SBC Indiana ("SBC Indiana") and Sage Telecom, Inc. ("Sage") to submit, within ten days, their entire interconnection agreement, which SBC Indiana and Sage contend is not, in its entirety, an interconnection agreement subject to the requirements of the federal Telecommunications Act of 1996 ("Act"). On June 17, 2004, pursuant to 170 IAC 1-1.1-4, these parties filed with the Indiana Utility Regulatory Commission ("Commission") the *Joint Petition of Sage Telecom, Inc. and SBC Indiana for Confidential and Proprietary Treatment of Certain Portions of Their "Private Commercial Agreement for Local Wholesale Complete"* ("Petition"). Accompanying the Petition were the Affidavits of both Robert W. McCausland, Vice President of Regulatory Affairs for Sage and Michael Auinbauh, Assistant Vice President of Local Interconnection Marketing for SBC Telecommunications, Inc.

The Petition asserts that the Private Commercial Agreement for Local Wholesale Complete ("Agreement") executed on April 21, 2004, between Sage and SBC Indiana contains certain specified portions that constitute confidential trade secret information, and requests that the Commission issue a protective Order or Entry finding that certain specified information within the Agreement, while it is being reviewed by the Commission for purposes of ruling on the Petition, is exempt from public disclosure pursuant to the trade secret exception to disclosure found at IC 5-14-3-4 and 24-2-3-2.

On May 5, 2004, Sage and SBC Indiana filed with the Commission a tenth amendment to the interconnection agreement in Cause No. 41268-INJ-123ND, thereby modifying the terms of that interconnection agreement. According to a May 14, 2004 letter sent by Sage and SBC Indiana to the Commission, the tenth amendment to this interconnection agreement constitutes the only portions of the Agreement that are governed by Sections 251 and 252 of the Act. On May 20, 2004, the Commission received a redacted copy of the Agreement from Sage and SBC Indiana.

The Affidavits accompanying the Petition do not sufficiently describe the factual nature of the information that has been redacted from the Agreement. While the Affidavit of Mr. Auinbauh discusses the factual nature of the redacted portions of the *LWC Pricing Schedule* found in the Agreement, there are numerous other portions of the Agreement that are marked "Redacted" with no specific reference in either the Agreement or the Affidavits as to the factual nature of the redacted information. Sage and SBC Indiana should comply with the requirements of 170 IAC 1-1.1-4(b) and file additional information in a sworn statement or testimony that describes the nature of all information for which confidential treatment is sought and, to the extent not already provided, reasons why the information fits the definitional elements of trade secret found at IC 24-2-3-2. This additional information should be filed on or before July 2, 2004.

Rather than making a preliminary determination of confidentiality, as requested in the Petition, we find it appropriate to schedule an in camera inspection with respect to the claim for confidential treatment of the redacted portions of the Agreement, and establish the procedures below for conducting the in camera inspection.

The in camera inspection is scheduled to commence on July 7, 2004, at 9:00 a.m. EST in Room E306 of the Indiana Government Center South, Indianapolis, Indiana. At that time, Sage and SBC Indiana should, pursuant to 170 IAC 1-1.1-4(c), make available on a provisional basis, for the limited purpose of determining its confidentiality, the information for which confidential treatment has been requested. In that regard, it is our expectation that five (5) copies of the entire Agreement will be presented to the Presiding Officers with the portions for which confidential treatment is sought clearly identified. The Presiding Officers will distribute copies of the entire Agreement to the Commission staff assigned to this proceeding with instruction not to make copies of the information for which confidential treatment is sought and to neither share nor discuss the information for which confidential treatment is sought with other persons, except among themselves and, as necessary, with other Commission staff for the purpose of obtaining information relevant to the Presiding Officers' determination as to confidentiality. Following receipt of the information, the in camera inspection will be recessed and reconvened at 2:00 p.m. on the same day and at the same location. At that time, pursuant to 170 IAC 1-1.1-4(c), Sage and SBC Indiana may present argument on confidentiality of the information.

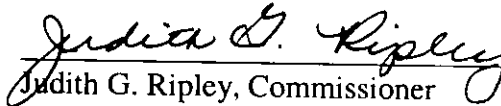
Other parties in existence at the time of the in camera inspection will not be allowed to view the information for which confidential treatment is sought, except by agreement of Sage and SBC Indiana. To allow otherwise would defeat the purpose of the Commission procedures at 170 IAC 1-1.1-4 to determine whether information to be submitted to the Commission is confidential and, if there is a finding that the information constitutes confidential trade secret information, of the Commission's responsibility under IC 5-14-3 to ensure that the information is not publicly disclosed.

Other parties will, however, be allowed to present argument at the in camera hearing. All argument and any questions from the bench and answers thereto will be

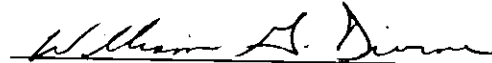
conducted in the presence of all parties unless the Presiding Officers determine that sufficient argument or questions or answers cannot be presented without revealing the information for which confidential treatment is sought. At the in camera hearing, the Presiding Officers may establish time limits for the parties to present argument.

At the close of the in camera hearing, all copies of the claimed confidential information will be returned to Sage and SBC Indiana. The Presiding Officers anticipate making a determination on this issue of confidentiality in an Entry subsequent to the in camera hearing.


IT IS SO ORDERED.



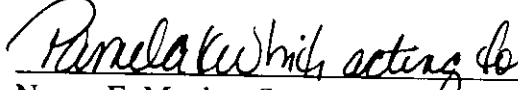
Judith G. Ripley, Commissioner



William G. Divine, Administrative Law Judge



Date



Nancy E. Manley, Secretary to the Commission